



INTERIOR BOARD OF INDIAN APPEALS

Medallion Exploration v. Acting Phoenix Area Director, Bureau of Indian Affairs

28 IBIA 276 (11/01/1995)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

MEDALLION EXPLORATION,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 95-14-A
ACTING PHOENIX AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	November 1, 1995

Appellant Medallion Exploration sought review of a September 1, 1994, letter from the Acting Phoenix Area Director, Bureau of Indian Affairs (BIA; Area Director), notifying it that Oil, Gas and Mining Lease 14-20-H62-2479 (Lease 2479), between appellant and the Ute Indian Tribe of the Uintah and Ouray Reservation (Tribe), expired by its own term for failure to produce oil and/or gas in paying quantities. Based on its initial review of this appeal, the Board requested supplemental briefs from the parties. After receiving the supplemental briefs, the Board had again begun consideration of this matter.

On October 30, 1995, the Board received a letter from counsel for the Area Director, stating that on July 24, 1995, the Superintendent, Uintah and Ouray Agency, BIA (Superintendent), had approved a new lease between appellant and the Tribe which covered the land at issue in this appeal. The letter asked the Board to "nonetheless * * * rule on the issue of expiration to determine its effect on the new lease issued to [appellant]." Letter at 1.

A copy of the new lease, No. 14-20-H62-4668 (Lease 4668), was attached to the letter. The two leases clearly cover the same property, although it is described slightly differently. Lease 4668 is signed by appellant's President, the Tribal Chairman, the President of the Ute Distribution Corporation, and the Superintendent; and includes an Exhibit B, "Ute Indian Tribe Replacement Leases for Workover and Recompletion Program," which identifies Lease 2479 as one of the leases being replaced.

No party to this appeal informed the Board that a new lease was under discussion. Although appellant's supplemental brief is dated July 31, 1995, 7 days after Lease 4668 was approved by the Superintendent, neither that brief, nor any other filing, mentions the new lease.

The Board has consistently held that once an appeal has been filed with it, BIA loses jurisdiction over the matter except to participate in the appeal as a party. The reasons for this rule were extensively discussed in Five Sandoval Indian Pueblos, Inc. v. Deputy Commissioner of Indian Affairs, 21 IBIA 17, 1819 (1991), and will not be repeated here, except to comment

that the rule is part of any orderly review process and is intended to ensure that only one forum at a time has authority to act in a matter. See Pierce v. Eastern Area Director, 27 IBIA 183 (1995); United Auburn Indian Community v. Sacramento Area Director, 24 IBIA 33 (1993); Cherokee Nation of Oklahoma v. Muskogee Area Director, 22 IBIA 240 (1992). The Board held in Hammerberg v. Acting Portland Area Director, 24 17BIA 78, 79 (1993), that "[a]ny decision issued by BIA in a matter pending before the Board without express authorization from the Board is a nullity and is without any force or effect."

The Superintendent clearly lacked authority to approve a new lease covering the same property that was the subject of an appeal pending before the Board. Accordingly, the Board could hold that Lease 4668 is null and void.

However, the Board strongly encourages the settlement of disputes among the parties. It therefore routinely grants requests to stay proceedings so that the parties may discuss settlement. Had the parties here informed it that a new lease was under discussion, the Board would not have hesitated to stay its consideration of this appeal.

Under the circumstances of this case, the Board doubts that any positive results would be achieved by holding that Lease 4668 is null and void. Therefore, it has decided to accept Lease 4668 as a negotiated settlement of this dispute, and to approve that settlement.

The Board declines to rule on the expiration of Lease 2479. Lease 2479 has been superseded by Lease 4668, thereby rendering moot the question of whether Lease 2479 expired. Except under extraordinary circumstances, the Board does not rule on moot issues. The Area Director has not shown that such circumstances exist here.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Acting Phoenix Area Director's September 1, 1994, decision is dismissed on the basis of the settlement among the parties.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge